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08 APR -7 AM 11:09
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 1063

UNITED STATES OF AMERICA, Plaintiff, v. **James Anthony FAHLE** and **David Wayne COOK** Defendants.	Magistrate Case No.________ COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1324(a)(2)(B)(iii)- Bringing in Illegal Alien(s) Without Presentation (Felony)

The undersigned complainant being duly sworn states:

On or about **April 4, 2008**, at the San Ysidro Port of Entry, within the Southern District of California, defendants **James Anthony FAHLE and David Wayne COOK**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **D.P.J.A.**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs and Border Protection Enforcement Officer.

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **7th** DAY OF **April, 2008**.

UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, United States Customs and Border Protection (CBP) Enforcement Officer Georgina Rios, declare under penalty of perjury the following to be true and correct:

On April 4, 2008 at approximately 1720 hours **James Anthony FAHLE** (Defendant 1), was waiting in traffic lane #21 to make application for admission into the United States from Mexico at the San Ysidro, California Port of Entry as the driver of a 1992 Saab 900 Turbo. In the vehicle was one visible passenger, **David Wayne COOK** (Defendant 2). A U.S. Customs and Border Protection (CBP) K-9 Officer conducting roving operations approached defendant with his K-9 "Cuervo". The K-9 alerted to the vehicle. During primary inspection, Defendant1 gave a negative customs declaration and claimed that he had just bought the vehicle in Mexico to a CBP Officer. Defendant 1 stated that he was going to San Diego, California. A second CBP Officer assisted and conducted a cursory inspection of the vehicle, discovering an individual concealed under the rear seat of the vehicle. The CBP Officers handcuffed both defendant 1 and 2 for officer safety and escorted them to secondary. A CBP Officer drove the vehicle to secondary for further inspection.

In secondary, Prosecution CBP Enforcement Officers Pederson, James, and Poplawski, responded and discovered a female concealed within underneath the rear seat of the vehicle. CBP Enforcement Officers lifted the rear seat and removed the female from underneath.

The individual is now identified as Material Witness: **D.P.J.A. (Material Witness)**. Material Witness is determined to be a citizen and native of Guatemala with no entitlements to enter, pass-through, or reside in the United States.

During separate videotaped proceedings, Defendant 1 and Defendant 2 were advised of their Miranda rights and acknowledged their rights. Defendant 2 elected to answer questions without benefit to counsel. Defendant 2 admitted knowledge of the undocumented alien concealed under the rear seat of the vehicle. Defendant 2 stated Defendant 1 made all of the arrangements to smuggle the undocumented alien into the United States. Defendant 2 admitted he was going to receive an unknown amount of money for smuggling the alien into the United States. Defendant 2 stated Defendant 1 was going to drive the vehicle to Chula Vista, California to a predetermined location after successfully crossing the border.

On a separate videotaped interview, Material Witness declared she is a citizen of Guatemala who has no legal right to enter the United States. Material Witness stated she was going to San Diego, California to live with her parents. Material Witness stated her father made all of the smuggling arrangements and was going to pay an unknown amount to the smugglers.

EXECUTED ON THIS 5th DAY OF April, 2008 AT 0200.

#7565

Georgina Rios / CBP Enforcement Officer

On the basis of the facts presented in the Probable Cause Statement consisting of (1) page, I find probable cause to believe that the defendants named therein committed the offense on April 4, 2008 in violation of Title 8, United States Code, Section 1324.

MAGISTRATE JUDGE

4-5-08 @ 10:49 a.m.
DATE / TIME

TOTAL P.13